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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,477	05/07/2004	Brendan Roberts	10978.7801U 3476	
31292 CHRISTOPHE	7590 07/11/2007 R & WEISBERG, P.A.		EXAMINER	
200 EAST LAS OLAS BOULEVARD			MATHEW, FENN C	
	SUITE 2040 FORT LAUDERDALE, FL 33301		ART UNIT	PAPER NUMBER
			3764	
			MAIL DATE	DELIVERY MODE
			07/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(a)				
	Application No.	Applicant(s)				
	10/709,477	ROBERTS ET AL.				
Office Action Summary	Examiner	Art Unit				
	Fenn C. Mathew	3764				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the o	correspondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period was reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATIO 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE.	N. mely filed the mailing date of this communication. ED (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on <u>27 June 2007</u> .						
,	This action is FINAL . 2b)⊠ This action is non-final.					
•—	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>12-18 and 28-45</u> is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>12-18 and 28-45</u> is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/o	r election requirement.					
Application Papers		·				
9) The specification is objected to by the Examine	or					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) ☐ The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) All b) Some * c) None of:						
 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau		ed in this National Stage				
* See the attached detailed Office action for a list		ed.				
	·					
·						
Attachment(s) 1) Notice of References Cited (PTO-892)	4) Interview Summar	v (PTO-413)				
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Date					
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	5) Dotice of Informal 6) Other:	ratent Application				

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I encompassing claims 12-18 and 28-45 in the reply filed on 06/27/2007 is acknowledged. Examiner notes that claims 31-45 were unintentionally omitted in the restriction requirement, but further notes that claims 31-45 fall into the elected group.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 12-18, 28-41, and 43-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Barnett (U.S. 5,857,948). Barnett discloses a device comprising an elongated member capable of fitting around the neck of a user, a grasping mechanism on opposing ends of the elongated members for allowing an individual to grasp the elongated member as it is wrapped around a user's neck. Referring to claim 13, Barnett discloses teaches that the elongate member may be made of neoprene, which is resilient. Referring to claim 14, Barnett teaches the device may be inflated. Referring to claim 15, Barnett teaches that the inflatable elongated member includes a device to regulate inflation (fig. 6). Referring to claim 16, Barnett teaches 'finger holes' at the ends of the elongated member. Absent further limitation, with respect to claim 17,

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Barnett teaches a device that can be moved in the claimed directions. Referring to claims 18, and 28-41 and 43-44, the claims are substantially similar in scope to the claims above. Note rejections above. Additionally, note that the device includes a top member, bottom member that are sealed together. Note the device is adapted to fit around the neck of a user, and that a user may grip the ends as they please. Note also that Barnett teaches a 'bulge' as the device has a reduced cross-section towards the ends of the device.

Claim Rejections - 35 USC § 103

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 5. Claims 42 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett alone. With respect to claim 42, Barnett teaches the claimed invention except for a plurality of inflatable compartments. Having a plurality of inflatable compartments amounts to a duplication of working parts and therefore would have been prima facie obvious to one of ordinary skill in the art, as it is notoriously old and well known to have a plurality of inflatable compartments in inflatable devices. With respect to claim 45, Barnett teaches the claimed invention except for the specific shape. It would have been obvious to one of ordinary skill in the art to provide arcuate recesses in order to have the device better conform to the body of a user.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

F.C. Mathew July 2, 2007